



Canada Energy  
Regulator

Régie de l'énergie  
du Canada

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File OF-Fac-Oil-T260-2013-03 63  
4 May 2020

Mr. Scott Stoness  
Trans Mountain Canada Inc.  
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Calgary, AB T2P 5J2  
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Mr. Shawn H.T. Denstedt, Q.C.  
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Calgary, AB T2P 5H1  
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Dear Mr. Stoness and Mr. Denstedt:

**Trans Mountain Pipeline ULC (Trans Mountain)  
Trans Mountain Expansion Project (TMEP)  
Plan, Profile and Book of Reference (PPBoR) Approval No. 9  
Lands in Segments 3, 4, and 5.3  
Order OPL-003-2020**

**A. Background**

On 18 June 2019, the Governor in Council approved the TMEP, subject to 156 conditions. Subsequently, on 21 June 2019, the National Energy Board (NEB) issued Certificate of Public Convenience and Necessity (Certificate) OC-065 ([C00061](#)).

On 19 July 2019, the NEB directed Trans Mountain to file its PPBoR for the entire TMEP route ([C00593](#)). Trans Mountain filed its PPBoR for Segment 3 on 26 July 2019 and for Segments 4 and 5 on 31 July 2019 (folder [3808418](#)).

On 28 August 2019, the *Canadian Energy Regulator Act* (CER Act)<sup>1</sup> came into force, repealing the *National Energy Board Act* (NEB Act).<sup>2</sup> Pursuant to transitional provision 34 of Bill C-69, Certificate OC-065 is considered to be a Certificate issued under the CER Act and remains in force.

Effective 28 August 2019, the Commission of the Canada Energy Regulator<sup>3</sup> (Commission) will consider approval of the PPBoR under the CER Act, as filed PPBoR were not expressly excluded from the application of the CER Act.<sup>4</sup>

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<sup>1</sup> As enacted by Part 2 of *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, S.C. 2019 c 28, assented to 21 June 2019 (Bill C-69).

<sup>2</sup> R.S.C., 1985, c. N-7 (repealed).

<sup>3</sup> On 28 August 2019, pursuant to the CER Act, the National Energy Board was replaced with the Canada Energy Regulator. The National Energy Board's adjudicative work has been transferred to the Commission of the Canada Energy Regulator.

<sup>4</sup> Bill C-69, transitional provision 36.

Pursuant to section 34 of the NEB Act, subsection 201(1) of the CER Act, and/or the *National Energy Board Substituted Service Regulations*,<sup>5</sup> as applicable, Trans Mountain served landowners along the length of the TMEP with a notice that the detailed route approval process was underway, and placed notices in local publications. The NEB provided notices to Indigenous peoples and placed Trans Mountain's published notices on its [website](#). All notices indicated that interested persons could file a statement of opposition (SOO) in relation to the proposed detailed route (or the methods or timing of construction), the timeline for doing so, and described how to obtain further information or assistance. The deadline to file a SOO varied by segment, and was dependent upon the dates of service (including substituted service) or publication.

Pursuant to subsection 203(1) of the CER Act, the Commission may not approve PPBoR unless it has taken into account all SOOs filed, and the representations made at a public hearing. Pursuant to subsections 202(6) and 203(2), if no SOOs are filed in respect of a PPBoR, or if the person that filed the SOO files a notice of withdrawal, that PPBoR may be approved by the Commission without further process.

## **B. PPBoR sheets approved**

Via this letter and the attached Order OPL-003-2020, the Commission approves:

- one PPBoR sheet in its entirety in Segment 3;
- four PPBoR sheets in their entirety in Segment 4; and
- ten PPBoR sheets in their entirety, and one partial PPBoR sheet, in Segment 5.3.

These PPBoR sheets pertain to lands for which:

- substituted service was effected and no SOOs were received;
- SOOs were filed and the Commission decided not to hold detailed route hearings with respect to them;
- SOOs were filed and subsequently withdrawn;
- SOOs were filed for which detailed route hearings were held and detailed routing decisions were issued (Sugarloaf Ranches Ltd. [MH-002-2020] and KGHM Ajax Mining Inc. [MH-003-2020]); and/or
- approval had previously been withheld to provide for adequate routing flexibility on adjacent PPBoR sheets that are now being approved.

On 22 January 2020, via Order OPL-001-2020 ([C04241](#)), the Commission partially approved PPBoR Sheet M002-PM03011-012 in Segment 5.3 (from KP 845+963 to 846+733). The remainder of the PPBoR sheet was not approved at time because it provided a buffer to give adequate routing flexibility for Detailed Route Hearings MH-002-2020 and MH-003-2020 pertaining to adjacent PPBoR sheets. Those detailed route hearings have now concluded and the Commission has issued the related decisions. The remainder of this PPBoR sheet (from KP 846+733 to KP 848+577) is now approved.

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<sup>5</sup> SOR/83-191. Pursuant to paragraph 44(g) of the *Interpretation Act*, the *National Energy Board Substituted Service Regulations* are in force and are deemed to have been made under the CER Act, insofar as they are not inconsistent with the CER Act, until they are repealed or replaced.

On 9 April 2020, Trans Mountain filed an update on the status of its substituted service applications ([C05698](#)). In Section 2.2 of that update, Trans Mountain requests approval of PPBoR Sheet M002-PM03006-001 as soon as possible. It states that it effected certain service in relation to the lands owned by Brian Robert Fitzgerald (Tract 187) on 6 April 2020. At this time, the Commission is of the view that service for Brian Robert Fitzgerald has not been effected in accordance with Order MO-007-2020 for substituted service ([C05429](#)). Until such time that the Commission is made aware that Order MO-007-2020 has been fully complied with and all necessary opposition periods have passed in relation to Tract 187 – without a SOO being filed – PPBoR Sheet M002-PM03006-001 **cannot** be approved.

**C. Conditions**

Detailed Route Hearings MH-002-2020 and MH-003-2020 examined lands shown on four of the approved PPBoR sheets in Segment 5.3. Conditions arising from these detailed route hearings, and specific to the relevant PPBoR sheets, have been included in the attached Order OPL-003-2020.

None of the approved PPBoR sheets are subject to conditions arising from previous detailed route hearings held in 2017/2018.

Following this PPBoR Approval No. 9, all portions of the PPBoR in **Segment 3** have been approved by the Commission.

The Commission will forward to Trans Mountain three certified copies of both Order OPL-003-2020 and the approved PPBoR sheets for deposit in the appropriate Land Titles or Registry Offices, pursuant to paragraph 198(d) of the CER Act.

Trans Mountain is reminded that it must meet all applicable pre-construction conditions of Certificate OC-065 before it can proceed with construction on lands covered by the approved PPBoR sheets.

Yours sincerely,

*Original signed by S. Wong for*

L. George  
Secretary of the Commission

Attachment

c.c. Trans Mountain Canada Inc., General inbox, [info@transmountain.com](mailto:info@transmountain.com)



## ORDER OPL-003-2020

**IN THE MATTER OF** the *National Energy Board Act* (NEB Act) and the regulations made thereunder; and

**IN THE MATTER OF** the *Canadian Energy Regulator Act* (CER Act) and the regulations made thereunder; and

**IN THE MATTER OF** the consideration of a Plan, Profile and Book of Reference (PPBoR) filed by Trans Mountain Pipeline ULC (Trans Mountain) under File OF-Fac-Oil-T260-2013-03 63, for approval pursuant to section 203 of the CER Act;

**BEFORE** the Commission of the Canada Energy Regulator (Commission) on 30 April 2020.

**WHEREAS** on 22 February 2019, the National Energy Board (NEB) submitted its MH-052-2018 report to the Minister, pursuant to subsections 53(5) and 21(2) of the NEB Act, and recommended that the Governor in Council approve the Trans Mountain Expansion Project (TMEP), subject to 156 conditions;

**AND WHEREAS** on 18 June 2019, the Governor in Council approved the TMEP via Order in Council P.C. 2019-820 and directed the NEB to issue a Certificate of Public Convenience and Necessity in respect of the TMEP;

**AND WHEREAS** on 21 June 2019, the NEB issued Certificate of Public Convenience and Necessity OC-065 to Trans Mountain;

**AND WHEREAS** Trans Mountain filed its PPBoR for Segment 3 on 26 July 2019 and for Segments 4 and 5 on 31 July 2019, pursuant to subsection 33(1) of the NEB Act;

**AND WHEREAS** on 28 August 2019, the CER Act came into force and the NEB Act was repealed;

**AND WHEREAS**, Trans Mountain completed its service and publication requirements in respect of the PPBoR sheets listed below;

**AND WHEREAS** in respect of the PPBoR sheets listed below, the Commission either received no written statements, rejected written statements that did not meet the requirements of the Commission, announced detailed route hearings for which written statements were subsequently withdrawn, or completed detailed route hearings;

**IT IS ORDERED THAT:**

The PPBoR sheets designated as the following, in the Province of British Columbia, are hereby approved pursuant to section 203 of the CER Act.

| <b>Drawing/sheet No.</b>                            | <b>Revision No.</b> | <b>Drawing date</b> |
|---|---------------------|---------------------|
| <b>Segment 3 (no conditions of approval)</b>        |                     |                     |
| M002-PM03007-014                                    | 0                   | 3 March 2017        |
| <b>Segment 4 (no conditions of approval)</b>        |                     |                     |
| M002-PM03008-013                                    | 1                   | 16 July 2019        |
| M002-PM03008-014                                    | 0                   | 3 March 2017        |
| M002-PM03008-016                                    | 1                   | 16 July 2019        |
| M002-PM03008-036                                    | 1                   | 16 July 2019        |
| <b>Segment 5.3 (no conditions of approval)</b>      |                     |                     |
| M002-PM03011-012<br>(from KP 846+733 to KP 848+577) | 1                   | 16 July 2019        |
| M002-PM03011-017                                    | 1                   | 16 July 2019        |
| M002-PM03011-047                                    | 0                   | 10 March 2017       |
| M002-PM03011-048                                    | 1                   | 16 July 2019        |
| M002-PM03011-049                                    | 0                   | 10 March 2017       |
| M002-PM03011-050                                    | 0                   | 10 March 2017       |
| M002-PM03011-051                                    | 0                   | 10 March 2017       |
| <b>Segment 5.3 (with conditions of approval)</b>    |                     |                     |
| M002-PM03011-013                                    | 0                   | 10 March 2017       |
| M002-PM03011-014                                    | 1                   | 16 July 2019        |
| M002-PM03011-015                                    | 0                   | 10 March 2017       |
| M002-PM03011-016                                    | 0                   | 10 March 2017       |

The Commission's approval of PPBoR Sheets M002-PM03011 (013 to 016) is subject to following conditions:

- 1) Trans Mountain must comply with all of the conditions contained in this Order, including all commitments made during Detailed Route Hearings MH-002-2020 and MH-003-2020 (which incorporate the MH-008-2018 and MH-009-2018 hearing records), unless the Commission otherwise directs.
- 2) Trans Mountain must file with the Commission, and provide to KGHM Ajax Mining Inc. and Sugarloaf Ranches Ltd., within 30 days of the issuance of this Order, a Commitments Table listing all commitments made by Trans Mountain on the record of the MH-002-2020 and MH-003-2020 proceedings, including reference to:
  - i) the documentation in which the commitment appears (for example, evidence, hearing transcripts, or other source); and
  - ii) the estimated timelines associated with the fulfillment of each commitment.
- 3) Trans Mountain must file with the Commission, within 30 days of the issuance of this Order, updated environmental and construction alignment sheets applicable to this Order, to include the Order number and account for any applicable changes resulting from Detailed Route Hearings MH-002-2020 and MH-003-2020 or the Commission's decisions in those hearings.
- 4) Trans Mountain must maintain at its construction office(s), a copy of this Order and any filings made to the Commission under this Order.

COMMISSION OF THE CANADA ENERGY REGULATOR

*Original signed by S. Wong for*

L. George  
Secretary of the Commission